

Mail Stop Missing Parts,
Commissioner for Patents
P.O. Box 1450, Alexandria, VA 22313-1450
on July 30, 2004

Anthony P. Curtis, Ph.D., Reg. No. 46,193

Signature _____

Date of Signature

130.00 OP

(A) As set forth in MPEP §409.03(b), the following are enclosed: An oath per 37 CFR 1.63 and 1.64 or 1.75;

(B) I, Anthony P. Curtis, represent Etenna Corporation ("Etenna"), the current assignee of the above-referenced patent application. I have no direct relationship with any of the named inventors;

(C) Attached herewith is my affidavit per MPEP 409.03(d) indicating the facts relating to the diligent efforts made to secure the execution of the declaration of inventor McKinzie;

(D) The last known address of inventor McKinzie is as follows:
8126 Brookwood Farm Road, Fulton, Maryland, 20759 (Home).

(E) Attached herewith is the Employment Agreement and Invention Assignment signed by inventor McKinzie agreeing to assign to Etenna his interest in any inventions jointly or solely made by inventor McKinzie during his time of employment by Etenna, thus giving Etenna proprietary ownership of the invention, as well as a facsimile of April 26, 2004 and letter of June 18, 2004 from the firm Paul, Hastings, Janofsky and Walker, who represent Mr. McKinzie, indicating that Mr. McKinzie refuses to sign a Declaration for the above-identified patent application; and

(F) This petition is necessary to preserve Etenna's rights and to prevent irreparable damage because the statutory time limit for responding to the Notice to File Missing Parts is January 2, 2005, which is approaching.

Acceptance of the enclosed Declaration is respectfully requested.

Respectfully submitted,



Anthony P. Curtis, Ph.D.
Registration No. 46,193
Attorney for Etenna

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4250

I hereby certify that this correspondence is being deposited with the United States Postal Service, with sufficient postage, as first class mail in an envelope addressed to:

Mail Stop Missing Part,
Commissioner for Patents
Box 1450, Alexandria, VA 22313-1450
on July 30, 2004

Date of Deposit

Anthony P. Curtis, Ph.D., Reg. No. 46,193

Name of applicant, assignee or
Registered Representative

Signature

Date of Signature

Our Case No. 10599/130

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Shawn Rodgers, et al.

Serial No. 10/802,664

Filing Date: March 17, 2004

For CIRCUIT AND METHOD FOR
ENHANCED LOW FREQUENCY
SWITCHING NOISE SUPPRESSION
IN MULTILAYER PRINTED
CIRCUIT BOARDS USING A CHIP
CAPACITOR LATTICE

Examiner: not yet assigned

Group Art Unit No.:

AFFIDAVIT OF FACTS IN SUPPORT OF FILING ON BEHALF OF OMITTED INVENTOR WILLIAM MCKINZIE, III (37 C.F.R. 1.47)

This declaration is made as to the facts that are relied upon to establish the diligent effort made to secure the execution of the declaration by the omitted William E. McKinzie, III for the above-identified patent application. This declaration is being made by a person having first-hand knowledge of the facts recited herein.

1. I, Anthony Curtis, represent Etenna Corporation, the assignee of the above-identified patent application.

2. William E. McKinzie, III is a former employee of Etenna Corporation.

3. On April 22, 2004, I contacted Mr. McKinzie and indicated that he would be asked to review and sign a Declaration For Patent Application and an Assignment for the above-identified patent application.

4. On April 23, 2004, Mr. McKinzie indicated that I should contact his attorney, Tom Hornish, of the firm Paul, Hastings, Janofsky and Walker to discuss the matter.

5. On or about April 25, 2004, I contacted Mr. Hornish and indicated that we would be sending Mr. McKinzie the above-identified patent application to review, as well as a Declaration For Patent Application and an Assignment to sign. At that time, Mr. Hornish indicated that Mr. McKinzie had no intention of reviewing or signing the above-identified application at that time.

6. On or about April 26, 2004, Mr. Hornish sent me a fax reiterating the fact that Mr. McKinzie had no intention of reviewing or signing the above-identified application.

7. On or about April 29, 2004, I received a fax from Etenna Corporation containing the employment agreement signed by Mr. McKinzie.

8. On June 10, 2004, I again contacted the firm of Paul, Hastings, Janofsky and Walker, this time sending a copy of Mr. McKinzie's employment agreement in addition to the above-identified patent application, and the Declaration and Assignment for the above-identified patent application to the address of the firm, 3579 Valley Centre Drive, San Diego, CA 92130.

9. On June 18, 2004, Mr. John Benassi of the firm of Paul, Hastings, Janofsky and Walker, again indicated that they were returning the material unread and that Mr. McKinzie would not review or sign any Declaration for the above-identified patent application.

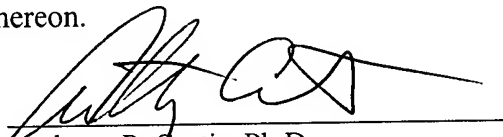
10. On July 14, 2004, inventor Shawn D. Rodgers, an employee of Etenna Corporation, signed a Declaration and an Assignment for the above-identified patent application.

11. To date, I have not received an executed Declaration from Mr. McKinzie.

12. The statutory due date to respond to the Notice to File Missing Parts for the above-identified patent application is January 2, 2005. Since Mr. McKinzie, through his attorney, has not responded to the repeated requests for execution of the Declaration, and since Etenna Corporation has been informed by Mr. McKinzie's attorney that Mr. McKinzie will refuse to sign the documents, Mr. McKinzie is unavailable or refuses to sign the Declaration.

13. The undersigned further declares that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: 7/30/04

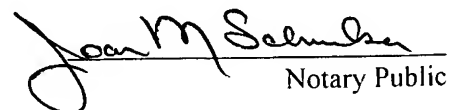

Anthony P. Curtis, Ph.D.

STATE OF Illinois)
) ss.
COUNTY OF Cook)

I, Joan M Schumaker, A Notary Public in and for the County and State aforesaid, do hereby certify that Anthony P. Curtis, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal, this day of July 30, 2004.




Notary Public

***e-tenna Corporation***

1650 Camino Del Mar
Del Mar, CA 92014
(858) 724-9300

July 30, 2000

William McKinzie
8126 Brookwood Farm Road
Fulton, MD 20759

Re: Terms of Employment Offer

Dear Will:

We are pleased to extend to you an offer of employment with e-tenna Corporation ("e-tenna" or the "Company"), effective as of August 1, 2000.

21 W.E.M.

1. **Position and Responsibilities.** You will serve in the position of Director of Research. You will assume and discharge such responsibilities as are commensurate with such position and as David Auckland may direct. During the term of your employment, you will devote your full time, skill and attention to your duties and responsibilities and will perform them faithfully, diligently and competently. In addition, you will comply with and be bound by the operating policies, procedures and practices of e-tenna in effect during your employment.

2. **At-Will Employment.** You acknowledge that your employment with e-tenna is for an unspecified duration that constitutes at-will employment, and that either you or e-tenna can terminate this relationship at any time, with or without cause and with or without notice.

3. **Compensation.**

(a) In consideration of your services, effective as of the commencement of your full-time employment you will be paid a base salary of \$120,000 per year, payable twice monthly in accordance with e-tenna standard payroll practices. Your base salary will be reviewed annually by the Board of Directors of e-tenna. In addition to your base salary, you will be eligible to earn an annual performance bonus, less applicable taxes, at the discretion of the CEO.

(b) Upon joining e-tenna, you will receive an incentive stock option to purchase 160,000 shares of Common Stock of e-tenna under the Company's 2000 Stock Plan. The option will be exercisable at the fair market value of the Common Stock, as determined by the Board of Directors. Your option will become exercisable as to 25% of the underlying shares after twelve

months of employment with the Company, and then monthly over the next 36 months based on continued employment. The terms of your option will be set forth in the stock option agreement between you and the Company. The Stock Plan, including the stock option agreement, will be sent to you separately.

(c) In addition to your base salary and stock options, you will be entitled to participate in any other employee incentive compensation plan which may be adopted by e-tenna in its sole discretion. You understand that the adoption of any such plan, the eligibility and measurement criteria and all other terms will be at the sole discretion of e-tenna.

(d) Except as provided in (e) below, if your employment is terminated by the Company, or if you resign your employment voluntarily, no compensation or other payments will be paid or provided to you for periods following the date when such a termination of employment is effective, provided that any rights you may have under the benefit plans of e-tenna will be determined under the provisions of those plans. If your employment terminates as a result of your death or disability, no compensation or payments will be made to you other than those to which you may otherwise be entitled under the benefit plans of e-tenna.

(e) If your employment is terminated by the Company without cause, you will be entitled to 4 months of severance pay. If your employment is terminated by the Company without cause within six months after a Change of Control (as defined below), you will be entitled to 4 months of severance pay and your stock options will automatically vest as to all shares which would have vested during the 48 months following your termination date. The foregoing benefits are contingent on your entering into a severance agreement in such form as the Company reasonably requests, which will include a waiver of any additional claims against the Company. For purposes of the foregoing, "cause" means one or more of the following: (i) material breach of any confidentiality, invention assignment or other agreement with the Company which breach is not cured within ten (10) days of receipt of written notice from the Company; (ii) negligence in the performance of duties or nonperformance or misperformance of such duties that in the good faith judgment of the Company adversely affects the operations or reputation of the Company; (iii) refusal to abide by or comply with the good faith directives of the Board of Directors or the Company's standard policies and procedures, which actions continue for a period of at least ten (10) days after written notice from the Company; (iv) any willful dishonesty, fraud, or misappropriation of funds with respect to the business or affairs of the Company; (v) conviction by, or entry of a plea of guilty or nolo contendere in, a court of competent and final jurisdiction for any crime which constitutes a felony in the jurisdiction involved; or (vi) abuse of alcohol or drugs (legal or illegal) that, in the Company's judgment, materially impairs your ability to perform your duties. For purposes of the foregoing, "Change of Control" means any acquisition of all or substantially all assets of the Company, or any merger, consolidation or similar transaction as a result of which the stockholders of the Company as of immediately prior to such transaction control less than 50% of the voting securities of the surviving entity.

5. **Other Benefits.** You will be entitled to receive the standard employee benefits made available by the Company to its employees to the full extent of your eligibility therefor. You will be entitled to four weeks of paid vacation per year (which will be consistent with the Company's

vacation policy). Upon commencement of your full-time employment, you will be permitted, to the extent eligible, to participate in any group medical, dental, life insurance and disability insurance plans, or similar benefit plan of e-tenna that is available to employees generally, if and when the Company adopts such plans. Participation in any such plan will be consistent with your rate of compensation to the extent that compensation is a determinative factor with respect to coverage under any such plan.

6. **Expenses.** e-tenna will reimburse you for all reasonable expenses actually incurred or paid by you in the performance of your services on behalf of the company, upon prior authorization and approval in accordance with the Company's expense reimbursement policy as from time to time in effect.

7. **Confidential Information.** You agree that your employment is contingent upon your execution of, and delivery to, the Company of an Employment, Confidential Information and Invention Assignment Agreement in the standard form used by the Company (the "Confidentiality Agreement").

8. **Conflicting Employment.** With the exception of your part-time employment with Atlantic Aerospace Electronics Corporation, you agree that, during the term of your employment with the Company, you will not engage in any other employment, occupation, consulting or other business activity directly related to the business in which e-tenna is now involved or becomes involved during the term of your employment, nor will you engage in any other activities that conflict with your obligations to the Company.

9. **Nonsolicitation.** Unless otherwise agreed to in writing by e-tenna, for a period of two (2) years after any termination of your employment with e-tenna, you will not, directly or indirectly, for yourself or on behalf of or in conjunction with any other person, company, partnership, corporation, business, group, or other entity, call upon any person who is, at that time, an employee of e-tenna for the purpose or with the intent of enticing such employee away from or out of the employ of e-tenna.

10. **General Provisions.**

(a) This offer letter sets forth the entire agreement and understanding between e-tenna and you relating to your employment and supersedes all prior written and oral agreements and all prior verbal discussion between us. Any subsequent change or changes in your salary or other compensation will not affect the validity or scope of this agreement. Any change to the at-will term of this agreement must be executed in writing and signed by you and the President or CEO of e-tenna.

(b) This agreement will be binding upon your heirs, executors, administrators and other legal representatives and upon the Company's successors in interest and will be for the benefit of e-tenna and its successors and assigns.

(c) You and we acknowledge and agree that they are engaged in a highly speculative venture, and that there is no assurance of any degree of success of the venture.

Please acknowledge and confirm your acceptance of this letter by signing and returning the enclosed copy of this offer letter, and the Confidentiality Agreement as soon as possible. If you have any questions about this offer letter, please call me directly. Upon receipt of this executed offer letter, we will present this contract to the Board of Directors for final approval. We look forward to working with you at e-tenna.

e-tenna Corporation



Lee H. Stein, CEO

ACCEPTANCE:

I accept the terms of my employment with e-tenna Corporation as set forth herein. I understand that this offer letter does not constitute a contract of employment for any specified period of time, and that my employment relationship may be terminated by either party, with or without cause and with or without notice.


Name _____ Date 7/30/2000

8126 Brookwood Farm Rd
Street Address _____ 494-52-9895
Social Security Number

Fulton, MD 20759
City, State, Zip Code _____ (301) 776-6889
Phone Number



E-TENNA CORPORATION

EMPLOYMENT, CONFIDENTIAL INFORMATION AND INVENTION ASSIGNMENT AGREEMENT

As a condition of my employment with e-tenna Corporation., its subsidiaries, affiliates, successors or assigns (together the "Company"), and in consideration of my employment with the Company and my receipt of the compensation now and hereafter paid to me by Company, I agree to the following:

1. **At-Will Employment.** I understand and acknowledge that my employment with the Company is for an unspecified duration and constitutes "at-will" employment. I acknowledge that this employment relationship may be terminated at any time, with or without good cause or for any or no cause, at the option either of the Company or myself, with or without notice.

2. **Confidential Information.**

(a) **Company Information.** I agree at all times during the term of my employment and thereafter, to hold in strictest confidence, and not to use, except for the benefit of the Company, or to disclose to any person, firm or corporation without written authorization of the Board of Directors of the Company, any Confidential Information of the Company. I understand that "Confidential Information" means any Company proprietary information, technical data, trade secrets or know-how, including, but not limited to, research, product plans, products, services, customer lists and customers (including, but not limited to, customers of the Company on whom I called or with whom I became acquainted during the term of my employment), markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances or other business information disclosed to me by the Company either directly or indirectly in writing, orally or by drawings or observation of parts or equipment. I further understand that Confidential Information does not include any of the foregoing items which has become publicly known and made generally available through no wrongful act of mine or of others who were under confidentiality obligations as to the item or items involved.

(b) **Former Employer Information.** I agree that I will not, during my employment with the Company, improperly use or disclose any proprietary information or trade secrets of any former or concurrent employer or other person or entity and that I will not bring onto the premises of the Company any unpublished document or proprietary information belonging to any such employer, person or entity unless consented to in writing by such employer, person or entity.

(c) **Third Party Information.** I recognize that the Company has received and in the future will receive from third parties their confidential or proprietary information subject to a duty on the Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes. I agree to hold all such confidential or proprietary information in the strictest confidence and not to disclose it to any person, firm or corporation or to use it except as necessary in carrying out my work for the Company consistent with the Company's agreement with such third party.

3. **Inventions.**

(a) **Inventions Retained and Licensed.** I have attached hereto, as Exhibit A, a list describing all inventions, original works of authorship, developments, improvements, and trade secrets which were made by me prior to my employment with the Company, if any (collectively referred to as "Prior Inventions"), which belong to me, which relate to the Company's proposed business, products or research and development, and which are not assigned to the Company hereunder; or, if no such list is attached, I represent that there are no such Prior Inventions. If in the course of my employment with the Company, I incorporate into a Company product, process or machine a Prior Invention owned by me or in which I have an interest, the Company is hereby granted and shall have a nonexclusive, royalty-free, irrevocable, perpetual, worldwide license to make, have made, modify, use and sell such Prior Invention as part of or in connection with such product, process or machine.

(b) **Assignment of Inventions.** I agree that I will promptly make full written disclosure to the Company, will hold in trust for the sole right and benefit of the Company, and hereby assign to the Company, or its designee, all my right, title, and interest in and to any and all inventions, original works of authorship, developments, concepts, improvements or trade secrets, whether or not patentable or registrable under copyright or similar laws, which I may solely or jointly conceive or develop or reduce to practice, or cause to be conceived or developed or reduced to practice, during the period of time I am in the employ of the Company (collectively referred to as "Inventions"), except as provided in Section 3(f) below. I further acknowledge that all original works of authorship which are made by me (solely or jointly with others) within the scope of and during the period of my employment with the Company and which are protectible by copyright are "works made for hire," as that term is defined in the United States Copyright Act.

(c) **Inventions Assigned to the United States.** I agree to assign to the United States government all my right, title, and interest in and to any and all Inventions whenever such full title is required to be in the United States by a contract between the Company and the United States or any of its agencies.

(d) **Maintenance of Records.** I agree to keep and maintain adequate and current written records of all Inventions made by me (solely or jointly with others) during the term of my employment with the Company. The records will be in the form of notes, sketches, drawings, and

any other format that may be specified by the Company. The records will be available to and remain the sole property of the Company at all times.

(e) **Patent and Copyright Registrations.** I agree to assist the Company, or its designee, at the Company's expense, in every proper way to secure the Company's rights in the Inventions and any copyrights, patents, mask work rights or other intellectual property rights relating thereto in any and all countries, including the disclosure to the Company of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments and all other instruments which the Company shall deem necessary in order to apply for and obtain such rights and in order to assign and convey to the Company, its successors, assigns, and nominees the sole and exclusive rights, title and interest in and to such Inventions, and any copyrights, patents, mask work rights or other intellectual property rights relating thereto. I further agree that my obligation to execute or cause to be executed, when it is in my power to do so, any such instrument or papers shall continue after the termination of this Agreement. If the Company is unable because of my mental or physical incapacity or for any other reason to secure my signature to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering Inventions or original works of authorship assigned to the Company as above, then I hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations thereon with the same legal force and effect as if executed by me.

(f) **Exception to Assignments.** I understand that the provisions of this Agreement requiring assignment of Inventions to the Company do not apply to any invention which qualifies fully under the provisions of California Labor Code Section 2870 (attached hereto as Exhibit B). I will advise the Company promptly in writing of any inventions that I believe meet the criteria in California Labor Code Section 2870 and not otherwise disclosed on Exhibit A.

4. **Conflicting Employment.** With the exception of my part-time employment with Atlantic Aerospace Electronics Corporation, I agree that during the term of my employment with the Company, I will not engage in any other employment, occupation, consulting or other business activity directly related to the business in which the Company is now involved or becomes involved during the term of my employment, nor will I engage in any other activities that conflict with my obligations to the Company.

5. **Returning Company Documents.** I agree that, at the time of leaving the employ of the Company, I will deliver to the Company (and will not keep in my possession, recreate or deliver to anyone else) any and all devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items developed by me pursuant to my employment with the Company or otherwise belonging to the Company, its successors or assigns. In the event of the

termination of my employment, I agree to sign and deliver the "Termination Certification" attached hereto as Exhibit C.

6. **Notification of New Employer.** In the event that I leave the employ of the Company, I hereby grant consent to notification by the Company to my new employer about my rights and obligations under this Agreement.

7. **Solicitation of Employees.** I agree that for a period of twenty-four (24) months immediately following the termination of my relationship with the Company for any reason, whether with or without cause, I shall not either directly or indirectly solicit, induce, recruit or encourage any of the Company's employees to leave their employment, or take away such employees, or attempt to solicit, induce, recruit, encourage or take away employees of the Company, either for myself or for any other person or entity.

8. **Conflict of Interest Guidelines.** I agree to diligently adhere to the Conflict of Interest Guidelines attached as Exhibit D hereto.

9. **Representations.** I agree to execute any proper oath or verify any proper document required to carry out the terms of this Agreement. I represent that my performance of all the terms of this Agreement will not breach any agreement to keep in confidence proprietary information acquired by me in confidence or in trust prior to my employment by the Company. I have not entered into, and I agree I will not enter into, any oral or written agreement in conflict herewith.

10. **Arbitration and Equitable Relief.**

(a) **Arbitration.** Except as provided in Section 10(b) below, I agree that any dispute or controversy arising out of or relating to any interpretation, construction, performance or breach of this Agreement, shall be settled by arbitration to be held in San Diego County, California, in accordance with the rules then in effect of the American Arbitration Association. The arbitrator may grant injunctions or other relief in such dispute or controversy. The decision of the arbitrator shall be final, conclusive and binding on the parties to the arbitration. Judgment may be entered on the arbitrator's decision in any court having jurisdiction. The Company and I shall each pay one-half of the costs and expenses of such arbitration, and each of us shall separately pay our counsel fees and expenses.

(b) **Equitable Remedies.** I agree that it would be impossible or inadequate to measure and calculate the Company's damages from any breach of the covenants set forth in Sections 2, 3, and 5 herein. Accordingly, I agree that if I breach any of such Sections, the Company will have available, in addition to any other right or remedy available, the right to obtain an injunction from a court of competent jurisdiction restraining such breach or threatened breach and to specific performance of any such provision of this Agreement. I further agree that no bond or other

security shall be required in obtaining such equitable relief and I hereby consent to the issuance of such injunction and to the ordering of specific performance.

11. General Provisions.

(a) Governing Law; Consent to Personal Jurisdiction. This Agreement will be governed by the laws of the State of California. I hereby expressly consent to the personal jurisdiction of the state and federal courts located in California for any lawsuit filed there against me by the Company arising from or relating to this Agreement.

(b) Entire Agreement. This Agreement sets forth the entire agreement and understanding between the Company and me relating to the subject matter herein and merges all prior discussions between us. No modification of or amendment to this Agreement, nor any waiver of any rights under this agreement, will be effective unless in writing signed by the party to be charged. Any subsequent change or changes in my duties, salary or compensation will not affect the validity or scope of this Agreement.

(c) Severability. If one or more of the provisions in this Agreement are deemed void by law, then the remaining provisions will continue in full force and effect.

(d) Successors and Assigns. This Agreement will be binding upon my heirs, executors, administrators and other legal representatives and will be for the benefit of the Company, its successors, and its assigns.

Date: 7/31/2000


Signature

William E. McKinzie III
Name of Employee (typed or printed)



Witness

EXHIBIT ALIST OF PRIOR INVENTIONS
AND ORIGINAL WORKS OF AUTHORSHIP

<u>Title</u>	<u>Date</u>	<u>Identifying Number or Brief Description</u>
SLOTCKT	1989	IBM Fortran code to calculate the radiation patterns from arbitrary arrays of slots. Master's thesis code.
APERCKT	1992	IBM Fortran code to calculate antenna performance from arbitrarily shaped slot radiators. Ph.D. dissertation code.

☐ No inventions or works of authorship☐ Additional Sheets Attached

Signature of Employee:

Print Name of Employee:

Date:

RHID:\APPS\UDORA\ATTACHE-TENNA AA EMPLOYEE -CONFIDENTIAL INFORMATION AND INVENTION ASSIGNMENT AGREEMENT1.DOC

BEST AVAILABLE COPY

①

EXHIBIT B**CALIFORNIA LABOR CODE SECTION 2870
EMPLOYMENT AGREEMENTS; ASSIGNMENT OF RIGHTS**

"(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:

- (1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer.
- (2) Result from any work performed by the employee for the employer.

(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable."



EXHIBIT D**E-TENNA CORPORATION
CONFLICT OF INTEREST GUIDELINES**

It is the policy of e-tenna Corporation to conduct its affairs in strict compliance with the letter and spirit of the law and to adhere to the highest principles of business ethics. Accordingly, all officers, employees and independent contractors must avoid activities which are in conflict, or give the appearance of being in conflict, with these principles and with the interests of the Company. The following are potentially compromising situations which must be avoided. Any exceptions must be reported to the President and written approval for continuation must be obtained.

1. Revealing confidential information to outsiders or misusing confidential information. Unauthorized divulging of information is a violation of this policy whether or not for personal gain and whether or not harm to the Company is intended. (The Employment, Confidential Information and Invention Assignment Agreement elaborates on this principle and is a binding agreement.)
2. Accepting or offering substantial gifts, excessive entertainment, favors or payments which may be deemed to constitute undue influence or otherwise be improper or embarrassing to the Company.
3. Participating in civic or professional organizations that might involve divulging confidential information of the Company.
4. Initiating or approving personnel actions affecting reward or punishment of employees or applicants where there is a family relationship or is or appears to be a personal or social involvement.
5. Initiating or approving any form of personal or social harassment of employees.
6. Investing or holding outside directorship in suppliers, customers, or competing companies, including financial speculations, where such investment or directorship might influence in any manner a decision or course of action of the Company.
7. Borrowing from or lending to employees, customers or suppliers.
8. Acquiring real estate of interest to the Company.

9. Improperly using or disclosing to the Company any proprietary information or trade secrets of any former or concurrent employer or other person or entity with whom obligations of confidentiality exist.

10. Unlawfully discussing prices, costs, customers, sales or markets with competing companies or their employees.

11. Making any unlawful agreement with distributors with respect to prices.

12. Improperly using or authorizing the use of any inventions which are the subject of patent claims of any other person or entity.

13. Engaging in any conduct which is not in the best interest of the Company.

Each officer, employee and independent contractor must take every necessary action to ensure compliance with these guidelines and to bring problem areas to the attention of higher management for review. Violations of this conflict of interest policy may result in discharge without warning.



Paul, Hastings, Janofsky & Walker LLP
3579 Valley Centre Drive, San Diego, CA 92130
telephone 858-720-2500 / facsimile 858-720-2555 / www.paulhastings.com

Paul Hastings

FACSIMILE TRANSMISSION

from: Thomas E. Hornish **facsimile:** (858) 720-2555 **telephone:** (858) 720-2565 **initials:** THE

client name: WEMTEC, Inc. **client matter number:** 39588.00003
date: April 26, 2004 **pages (with cover):** 3

to: Anthony P. Curtis, Ph.D. **company/office:** Brinks Hofer Gilson & Lione **facsimile:** (312) 321-4299 **telephone:** (312) 321-4200

comments:

Please see attached.

If you do not receive all pages, please call immediately Facsimile Center: (858) 720-2903

This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, and return the original message to us at the above address via the U.S. Postal Service. Thank you.

BEST AVAILABLE COPY

PaulHastings

Paul, Hastings, Janofsky & Walker LLP

3579 Valley Centre Drive, San Diego, CA 92130

telephone 858-720-2500 / facsimile 858-720-2555 / internet www.paulhastings.com

Atlanta
Beijing
Hong Kong
London
Los Angeles
New York
Orange County
San Diego
San Francisco
Shanghai
Stamford
Tokyo
Washington, D.C.

(858) 720-2565

tomhornish@paulhastings.com

April 26, 2004

Anthony P. Curtis, Ph.D.
Brinks Hofer Gilson & Lione
455 N. Cityfront Plaza Drive
Chicago, IL 60611-5599

Dear Mr. Curtis:

I represent a company in which Dr. William E. McKinzie, III is an owner and officer. It has come to my attention that you, on behalf of Etenna Corporation ("Etenna"), have asked, or Etenna has asked, Dr. McKinzie to execute an assignment and declaration regarding numerous United States patent applications which have been filed by Etenna. I understand that such patent applications relate to technology developed by Dr. McKinzie while he was employed by Etenna. As you know, there has been no exchange of any technical information between Etenna and Dr. McKinzie since Dr. McKinzie's employment terminated in August of 2003.

We are concerned about having Dr. McKinzie execute any assignment or declaration in connection with any patent application filed by Etenna, or to review any such application, because such application may include not only technology Dr. McKinzie worked on while previously employed by Etenna, but also technology that was developed or invented by Etenna, or its employees, after Dr. McKinzie left the employment of Etenna.

We cannot allow Dr. McKinzie to sign an assignment and declaration for a patent that includes technology developed after he left Etenna. Moreover, we cannot allow Dr. McKinzie to review any patent application that may contain such additional technology because by doing so, it may limit my client's ability to operate a consulting business, or to independently develop its own technology.

Because of this, we cannot allow Dr. McKinzie to review any of such patent applications or execute the requested assignments and declarations. However, if you happen to have any proposed solutions by which these concerns may be addressed, we will be happy to consider them. For example, if prior to Dr. McKinzie reviewing such application it can be ascertained for certain that the patent application contains no material other than that which was developed by him or known by him while he was still employed by Etenna, it may be possible for Dr. McKinzie to then review such application and execute the

BEST AVAILABLE COPY

PaulHastings

Anthony P. Curtis, Ph.D.
April 26, 2004
Page 2

assignments and declarations (assuming all of the representations in the declaration are then true).

Please contact me directly if you would like to discuss further.

Very truly yours,



Thomas E. Hornish
for PAUL, HASTINGS, JANOFSKY & WALKER LLP

cc: Dr. William E. McKinzie, III

Atlanta
Beijing
Hong Kong
London
Los Angeles
New York
Orange County
San Diego
San Francisco
Stamford
Tokyo
Washington, D.C.

(858) 720-2850
johnbenassi@paulhastings.com

June 18, 2004

39588.00001

Anthony P. Curtis, Ph.D.
Brinks Hofer Gilson & Lione
NBC Tower - Suite 3600
455 N. Cityfront Plaza Drive
Chicago IL 60611-4200

Re: William E. McKinzie, III

Dear Mr. Curtis:

This is in response to your June 10, 2004 letter directed to "Paul Hastings, Esq." Please be advised that I am simply a lawyer working at Paul Hastings Janofsky & Walker and not the founder of the firm.

We were frankly quite surprised at your letter because we believe we made clear that to protect Etenna and Dr. McKinzie we did not want Dr. McKinzie to have access to any information which was generated at Etenna after he left Etenna's employ. Accordingly, we are returning all patent applications and disclosures to you without reading them. None of the information you provided to us has been forwarded to Dr. McKinzie so there can be no question or argument that he had access to any of the information.

If you can come up with a solution to this problem, please advise us. But it appears that you can proceed without Dr. McKinzie. In addition to all of the other procedures that deal with this issue in the Patent Office rules, we note that you already have a power of attorney that allows you to proceed without him:

If the Company is unable because of my mental or physical incapacity or for any other reason to secure my signature to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering Inventions or original works of authorship assigned to the Company as above, then I hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations thereon with the same legal force and effect as if executed by me.

Paul Hastings

Anthony P. Curtis, Ph.D.
June 18, 2004
Page 2

Please do not try this again. We do not want to see any information regarding any technical developments which might have occurred at Etenna after Dr. McKinzie's departure.

We trust that this was an oversight on your part and not an international maneuver to taint Dr. McKinzie.

Please feel free to contact me if you have any questions.

Very truly,



John M. Benassi
OF PAUL, HASTINGS, JANOFSKY & WALKER LLP

Enclosures